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**DEC 24 2002**

**OFFICE OF PETITIONS**

In re Application of  
Jofuku, et al.  
Application No. 08/879,827  
Filed: June 20, 1997  
Attorney Docket No. 023070067210

DECISION ON PETITION

This is a decision on the petition filed May 31, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file a Appeal Brief. A Notice of Appeal was filed with a petition to revive under 37 CFR 1.137(b) on November 24, 2000.<sup>1</sup> The application had previously gone abandoned for failure to timely file a reply to a non-final Office action mailed May 11, 2000. The petition was granted in a decision mailed on March 29, 2001. Accordingly, applicant had two months from the mail date of the decision, or until May 29, 2001, to file an Appeal Brief in triplicate. No Appeal Brief with an extension of time having been received, the above-identified application became abandoned on May 30, 2001. A Notice of Abandonment was mailed on February 13, 2002.

With the instant petition, petitioner filed an amendment and a Terminal Disclaimer in response to the May 11, 2000 Office action. In addition, petitioner paid the petition fee and made the proper statement of unintentional delay as required by 37 CFR 1.137(b).

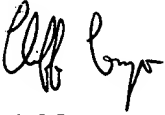
Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$55 extension of time fee submitted with the petition on May 31, 2002 was subsequent to the maximum period obtainable for reply (October 29, 2001), this fee will be refunded to petitioner under separate cover.

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<sup>1</sup> The Notice of Appeal was proper as the claims had been twice rejected. See 37 CFR 1.191(a).

The application file is being forwarded to Technology Center 1600 for consideration of the amendment and the Terminal Disclaimer, both filed May 31, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND										
1 Date of Request: <u>12/23/02</u>		2 Serial/Patent # <u>08/879,827</u>								
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT						
	Filing			\$						
	Amendment			\$						
<input checked="" type="checkbox"/>	Extension of Time	27	5/31/02	\$ 55.00						
	Notice of Appeal/Appeal			\$						
	Petition			\$						
	Issue			\$						
	Cert of Correction/Terminal Disc.			\$						
	Maintenance			\$						
	Assignment			\$						
	Other			\$						
7 TOTAL AMOUNT OF REFUND			\$ 55.00							
8 TO BE REFUNDED BY:										
10 REASON:		<input checked="" type="checkbox"/> Treasury Check								
	Overpayment	Credit Deposit A/C #:								
	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px; text-align: center;">--</td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>					--			
		--								
<input checked="" type="checkbox"/>	No Fee Due (Explanation):									
Applicant filed an extension of time beyond the maximum period obtainable for reply.										
11 REFUND REQUESTED BY:										
TYPED/PRINTED NAME: <u>Cliff Congo</u>		TITLE: <u>Petitions Attorney</u>								
SIGNATURE: <u>Cliff Congo</u>		PHONE: <u>305-0272</u>								
OFFICE: <u>Petitions</u>										
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****										
APPROVED: <u>Alicia Kelly</u>		DATE: <u>12/24/02</u>								

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